NEHEMIAH ROBINSON
(Name)

CALIPATRIA STATE PRISON ASU/E-POD #148
(Address)

CALIPATRIA, CA. 92233
(City, State, Zip)

J-71342
(CDC Inmate No.)

ORIGINAL

FILED
JUL - 2 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

United States District Court
Southern District of California

NEHEMIAH ROBINSON,
(Enter full name of plaintiff in this action.)

Plaintiff,

v.

T. CATLETT, et al.,
(Enter full name of each defendant in this action.)

Defendant(s).

'08 CV 0161 H BLM
Civil Case No.
(To be supplied by Court Clerk)

FIRST AMENDED COMPLAINT
(PUR. F.R.C.P. 15(a))

Complaint under the Civil Rights Act 42 U.S.C. § 1983

A. Jurisdiction

Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional authority, list them below.
PLEASE SEE PARAGRAPHS: 17, 35, 54, AND 67.

B. Parties

1. Plaintiff: This complaint alleges that the civil rights of Plaintiff, NEHEMIAH ROBINSON (print Plaintiff's name), who presently resides at CALIPATRIA STATE PRISON 7018 BLAIR ROAD, CALIPATRIA, CA. 92233 (mailing address or place of confinement), were violated by the actions of the below named individuals. The actions were directed against Plaintiff at CALIPATRIA STATE PRISON (institution/place where violation occurred) on (dates) ON OR ABOUT 02-06-06 (Count 1), 08-17-07 (Count 2), and 08-23-07 (Count 3) AND 05-23-07 (COUNT 4).

§ 1983 SD Form
(Rev. 2/05)

2. Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

— COUNT 1. —

Defendant T. CATLETT (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a SERGEANT (defendant's position/title (if any)). This defendant is sued in his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT T. CATLETT IS A CORRECTIONAL OFFICER OF CDCR, WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT HELD THE RANK OF SERGEANT AND WAS ASSIGNED TO CALIPATRIA STATE PRISON, FACILITY "B".

Defendant GARRETT (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a CORRECTIONAL OFFICER (defendant's position/title (if any)). This defendant is sued in his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT GARRETT IS A CORRECTIONAL OFFICER OF CDCR WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT WAS ASSIGNED TO CALIPATRIA STATE PRISON, FACILITY B, BUILDING 1, FLOOR OFFICER.

Defendant M. ARVIZU (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a CORRECTIONAL OFFICER (defendant's position/title (if any)). This defendant is sued in his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT ARVIZU IS A CORRECTIONAL OFFICER OF CDCR WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT WAS ASSIGNED TO CALIPATRIA STATE PRISON, FACILITY B, BUILDING 1, FLOOR OFFICER.

Defendant W.J. PRICE (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a FACILITY CAPTAIN (defendant's position/title (if any)). This defendant is sued in his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT W.J. PRICE IS A CORRECTIONAL OFFICER OF CDCR WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT HELD THE RANK OF FACILITY CAPTAIN AND WAS ASSIGNED TO CALIPATRIA STATE PRISON, FACILITY B.

Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant M. E. BOURLAND resides in IMPERIAL COUNTY,
(name) (County of residence)
and is employed as a CHIEF DEPUTY WARDEN (A). This defendant is sued in
(defendant's position/title (if any))
(his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT M.E. BOURLAND IS/WAS THE CHIEF DEPUTY WARDEN (A) OF CALIPATRIA STATE PRISON. HE IS LEGALLY RESPONSIBLE FOR THE OPERATION OF CALIPATRIA STATE PRISON AND FOR THE WELFARE OF ALL THE INMATES AT THE PRISON.

Defendant DIRECTOR OF CDCR AND, OR SECRETARY OF CDCR. resides in SACRAMENTO, CALIFORNIA.,
(name) (County of residence)
and is employed as a DIRECTOR OF CDCR AND, OR SECRETARY OF CDCR. This defendant is sued in
(defendant's position/title (if any))
(his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT DIRECTOR OF CDCR AND, OR SECRETARY OF CDCR, IS THE DIRECTOR OF CDCR. HE IS LEGALLY RESPONSIBLE FOR THE OVERALL OPERATION OF THE DEPARTMENT AND EACH INSTITUTION UNDER ITS JURISDICTION, INCLUDING CALIPATRIA STATE PRISON.

—— COUNT 2. ——

Defendant T. CATLETT resides in IMPERIAL COUNTY.,
(name) (County of residence)
and is employed as a SERGEANT. This defendant is sued in
(defendant's position/title (if any))
(his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT T. CATLETT IS A CORRECTIONAL OFFICER OF CDCR, WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT HELD THE RANK OF SERGEANT AND WAS ASSIGNED TO CALIPATRIA STATE PRISON, FACILITY B.

Defendant R. JOHNSON resides in IMPERIAL COUNTY.,
(name) (County of residence)
and is employed as a LIEUTENANT. This defendant is sued in
(defendant's position/title (if any))
(his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT R. JOHNSON IS A CORRECTIONAL OFFICER OF CDCR, WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT HELD THE RANK OF LIEUTENANT AND WAS ASSIGNED TO CALIPATRIA STATE PRISON, FACILITY B.

Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant T. OCHOA (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a CHIEF DEPUTY WARDEN (defendant's position/title (if any)). This defendant is sued in his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT T. OCHOA IS THE CHIEF DEPUTY WARDEN OF CALIPATRIA STATE PRISON. HE IS LEGALLY RESPONSIBLE FOR THE OPERATION OF CALIPATRIA STATE PRISON AND FOR THE WELFARE OF ALL THE INMATES AT THE PRISON.

Defendant DIRECTOR OF CDCR AND, OR SECRETARY OF CDCR. (name) resides in SACRAMENTO, CALIFORNIA. (County of residence), and is employed as a DIRECTOR OF CDCR AND, OR SECRETARY OF CDCR. (defendant's position/title (if any)). This defendant is sued in his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT DIRECTOR OF CDCR AND OR SECRETARY OF CDCR, IS THE DIRECTOR OF CDCR. HE IS LEGALLY RESPONSIBLE FOR THE OVERALL OPERATION OF THE DEPARTMENT AND EACH INSTITUTION UNDER ITS JURISDICTION, INCLUDING CALIPATRIA STATE PRISON.

— COUNT 3. —

Defendant WHIDMAN (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a CORRECTIONAL OFFICER (defendant's position/title (if any)). This defendant is sued in his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT WHIDMAN IS A CORRECTIONAL OFFICER OF CDCR WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT WAS ASSIGND TO CALIPATRIA STATE PRISON, FACILITY A, BUILDING 5, ADMINISTRATIVE SEGREGATION, FLOOR OFFICER.

Defendant R. NELSON, JR. (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a LIEUTENANT (defendant's position/title (if any)). This defendant is sued in his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT R. NELSON, JR. IS A CORRECTIONAL OFFICER OF CDCR, WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT HELD THE RANK OF LIEUTENANT AND WAS ASSIGNED TO CALIPATRIA STATE PRISON, FACILITY A, BUILDING 5, ADMINISTRATIVE SEGREGATION, FLOOR OFFICER.

Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant G. J. JANDA (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a ASSOCIATE WARDEN (defendant's position/title (if any)). This defendant is sued in (his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: (UNKNOWN)

— COUNT 4. —

Defendant D. NOREIGA (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a L.V.N (defendant's position/title (if any)). This defendant is sued in his/(her) ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: (UNKNOWN.)

Defendant J. M. SALGADO R.N (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a REGISTERED NURSE (defendant's position/title (if any)). This defendant is sued in (his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: (UNKNOWN.)

Defendant M. CORREA (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a (R.N) SUPERVISING REGISTERED NURSE II (defendant's position/title (if any)). This defendant is sued in his/(her) ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: (UNKNOWN.)

Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant K. BALL (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a (D.O) (CP&S) CHIEF PHYSICIAN/SURGEON (defendant's position/title (if any)). This defendant is sued in his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: (UNKNOWN)

Defendant V. O'SHAUGHNESSY (name) resides in UNKNOWN (County of residence), and is employed as a APPEAL EXAMINER (defendant's position/title (if any)). This defendant is sued in his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: (UNKNOWN)

Defendant DIRECTOR OF CDCR AND, OR SECRETARY OF CDCR. (name) resides in SACRAMENTO, CALIFORNIA. (County of residence), and is employed as a DIRECTOR OF CDCR AND, OR SECRETARY OF CDCR. (defendant's position/title (if any)). This defendant is sued in his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT DIRECTOR OF CDCR AND OR SECRETARY OF CDCR IS THE DIRECTOR OF CDCR. HE IS LEGALLY RESPONSIBLE FOR THE OVER ALL OPERATION OF THE DEPARTMENT AND EACH INSTITUTION UNDER ITS JURISDICTION, INCLUDING CALIPATRIA STATE PRISON.

Defendant ______ (name) resides in ______ (County of residence), and is employed as a ______ (defendant's position/title (if any)). This defendant is sued in his/her ☐ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: ______

C. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary.)

Count 1: The following civil right has been violated: 8TH AMEND. (CRUEL AND UNUSUAL PUNISHMENT) 14TH AMEND. (EQUAL PROTECTION / DUE PROCESS); 42 U.S.C.§ 12131 et. seq. (ADA); 29 U.S.C § 794 SECT. 504 (REHABILITATION ACT); PENNSYLVANIA DEPT. OF CORRECTION V. YESKEY (1998) 524 U.S. 206 [118 S. Ct. 1952; 141 L. Ed. 215]. (E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 1.]

1) PLAINTIFF ASSERT THAT M. PENNER (M.D) DIAGNOSED HIM WITH FAIRLY SEVERE ARTHRITIS OF MANY MAJOR JOINTS AND DIFFUSE JOINT DISEASE; SCOTT T. ANDERSON M.D, P.HD (PHYSICIAN AND SURGEON) DIAGNOSED PLAINTIFF WITH POST-TRAUMATIC DEGENERATIVE ARTHRITIS; ELANA HARWAY (M.D) RECOMMENDED THE NEED FOR (R) KNEE SURGERY AND THAT IT MAY REQUIRE MORE THAN ONE RECONSTRUCTIVE PROCEDURE AND THAT PLAINTIFF HAVE A "VALGUS DEFORMITY" OF THE (R) KNEE; FRANK HARTWICK, (M.D) DID A M.R.I (MAGNETIC RESONANCE IMAGING) OF PLAINTIFF (R) KNEE AND HIS RADIOLOGY REPORT FINDING IT IS STATED THAT PLAINTIFF HAVE A LATERAL MENISCAL TEAR; AND RONALD TAYLOR, M.D (RADIOLOGIST) DID A M.R.I (MAGNETIC RESONANCE IMAGING) OF PLAINTIFF (R) KNEE AND HIS IMPRESSION FINDINGS DESCRIBE EXTENSIVE (R) KNEE DAMAGE 1. THROUGH 6. AND DEPICT THE "DESTRUCTION OF THE POSTERIOR HORN OF THE LATERAL MENISCUS;" CHRISTOPHER LAI, M.D PERFORMED SURGERY ON PLAINTIFF (R) KNEE TO WIT "ARTHROSCOPIC DEBRIDEMENT (R) KNEE PATELLOFEMORAL JOINT, ARTHOSCOPIC DEBRIDEMENT LATERAL MENISCUS", AND POST-OPERATIVE DIAGNOSED PLAINTIFF WITH "DEGENERATIVE JOINT DISEASE (R) KNEE ESPECIALLY OF THE PATELLOFEMORAL JOINT"; JIAN MA (M.D) AUTHORED, GENERATED, AND SIGNED A CDC 1845 (DISABILITY PLACEMENT PROGRAM VERIFICATION) SPECIFICALLY STATING PLAINTIFF'S SYMPTOMS OF MULTIPLE JOINT PAIN (WRIST, ANKLE, KNEE & SHOULDER) AND WEAKNESS OF (R) LEG, QUESTIONABLE hx OF "COLLAGEN-VASCULAR DISEASE, ND LIFTING / CARRYING 20 LB, ET. PLAINTIFF RECEIVED PHYSICAL THERAPY FOR THE "FIRST TIME" ON 06-18-08, AND SAID THERAPY LASTED FOR ABOUT 10 TO 15 MINUTES AND IT WAS INADEQUATE / INEFFECTIVE THERAPY TREATMENT

2) PLAINTIFF HAS SUFFERED FROM SEVERE CHRONIC PAIN FOR A NUMBER OF YEARS IN MAJOR JOINTS, (R) KNEE. AND SAID MEDICAL ____ CONDITIONS ARE

VERY SERIOUS IN NATURE, THAT DEBILITATES AND IMPAIRS PLAINTIFF'S ABILITY TO FUNCTION NORMAL AND INTERFERE WITH DAILY ACTIVITY.

3) AS A RESULT OF PLAINTIFF'S MEDICAL CONDITIONS AND DISABILITY, TENDING PHYSICIAN'S AUTHORED, GENERATED AND SIGNED SEVERAL CDC 7410'S (COMPREHENSIVE ACCOMMODATION CHRONO'S) REQUIREING AN ACCOMMODATION, TO WIT, 1) GROUND FLOOR CELL, 2) BOTTOM BUNK, 3) WALKING CANE, AND 4) PHYSICAL LIMITATIONS TO JOB ASSIGNMENT, TO WIT, (A) LIGHT DUTY, NO LIFTING, NO PULLING, AND NO PUSHING, ET.

4) ON OR ABOUT 02-06-06, PLAINTIFF WAS PLACED IN FACILITY B, BUILDING #1, CELL #133, AND ASSIGNED TO THE "UPPER BUNK." PLAINTIFF ASSERT THAT HIS THEN CELLIE WAS ASSIGNED TO THE "LOWER BUNK", AND HE SUFFERED FROM A BAD BACK / BAD KNEE, AND WEIGHT WELL OVER 230 POUNDS. SGT. T. CATLETT WAS PRESENT AND PLAINTIFF MADE HIM AWARE OF THE FACT THAT PLAINTIFF'S COMPREHENSIVE ACCOMMODATION CHRONO (CDC 7410) WAS IN BUILDING #1, TOWER, REFLECTING THE NEED FOR PLAINTIFF TO BE PLACED ON THE LOWER TIER / LOWER BUNK.

5) ON OR ABOUT 03-17-06, PLAINTIFF SUBMITTED A CDC 602 (INMATE APPEAL) (HEREAFTER "CDC 602") WITH ATTACHED COMPREHENSIVE ACCOMMODATION CHRONOS (CDC 7410) (HEREAFTER "CDC 7410") REFLECTING REQUIRED ACCOMMODATIONS. THE CDC 602 WAS SUBMITTED TO CORRECTIONAL OFFICER B. GARRETT (HEREAFTER "C/O GARRETT") REQUESTING TO BE PLACED IN CELL # 144, WHICH WAS A "VACANT CELL", LOCATED IN BUILDING #1, ON THE GROUND FLOOR.

6) ON OR ABOUT 03-17-06, C/O GARRET GAVE PLAINTIFF BACK THE CDC 602 AND INSTRUCTED HIM TO SUBMIT THE CDC 602 TO HIS CO-WORKER, CORRECTIONAL OFFICER M. ARVIZU BECAUSE HE (C/O GARRETT) DIDN'T HAVE TIME TO LOOK INTO THE ISSUE. C/O GARRETT STATED THAT HIS CO-WORKER WILL INFORM SGT. T. CATLETT ON THE SITUATION AND SUBMIT THE CDC 602 TO SGT. T. CATLETT.

7) PLAINTIFF ASSERT THAT HE DID AS INSTRUCTED BY C/O GARRET AND SUBMITTED THE CDC 602 TO CORRECTIONAL OFFICER M. ARVIZU (HEREAFTER "C/O ARVIZU)

8) ON OR ABOUT 03-18-06, PLAINTIFF ASKED C/O ARVIZU DID HE (C/O ARVIZU) GIVE

SGT. T. CATLETT THE CDC 602 AND IS SGT. T. CATLETT GOING TO DO THE CELL MOVE? (HEREAFTER "SGT. CATLETT") C/O ARVIZU STATED "THAT HE SUBMITTED THE CDC 602 TO SGT. CATLETT, BUT DID NOT KNOW WHETHER OR NOT SGT. CATLETT IS GOING TO DO THE CELL·MOVE.

9) PLAINTIFF ASSERT THAT HE PERSONALLY TALKED TO SGT. CATLETT ON "TWO" OCCASIONS REGARDING THE ISSUE OF THE CELL·MOVE. SGT. CATLETT STATED THAT HE WAS GOING TO TALK TO C/O GARRETT. PLAINTIFF THEN ASKED SGT. CATLETT DID HE (SGT. CATLETT) HAVE THE CDC 602 IN HIS POSSESSION? SGT. CATLETT STATED THAT HE DID RECEIVE THE CDC 602 BUT DONT RECALL WHERE HE PLACED IT.

10) ON 03-22-06, PLAINTIFF WAS ESCORTED TO FACILITY B MEDICAL. PLAINTIFF MADE THE DOCTOR AND M.T.A. (MEDICAL TECH. ASST.) AWARE OF THE SITUATION. THE DOCTOR AND M.T.A (MEDICAL TECH. ASST.) (HEREAFTER "M.T.A") STATED THAT THEY WERE GOING TO TALK TO SGT. T. CATLET BECAUSE OF THE SERIOUSNESS OF PLAINTIFF'S MEDICAL CONDITIONS. PLAINTIFF ASSERT THAT CORRECTIONAL OFFICER HORTA (HEREAFTER "C/O HORTA") ESCORTED PLAINTIFF TOO AND FROM FACILITY B MEDICAL, AND C/O HORTA WAS PRESENT DURING THE CONVERSATION PLAINTIFF HAD WITH THE DOCTOR AND M.T.A., PLAINTIFF HAD IN HIS POSSESSION A PERSONAL COPY OF THE CDC 7410 AND SUBMITTED IT TO C/O HORTA UPON RETURN FROM FACILITY B MEDICAL WHILE INSIDE BUILDING #1, AND C/O HORTA TALKED TO C/O GARRETT ABOUT THE ISSUE OF THE CELL·MOVE AND C/O HORTA MADE C/O GARRETT AWARE OF PLAINTIFF'S SERIOUS MEDICAL CONDITION AND DISABILITY BY PERSONALLY SUBMITTING PLAINTIFF'S COMPREHENSIVE ACCOMMODATION CHRONO (CDC 7410) TO C/O GARRETT, REFLECTING THE NEED TO BE PLACED ON "A GROUND FLOOR CELL / BOTTOM BUNK". C/O GARRETT STATED THAT HE HAVE TO TALK TO HIS CO-WORKER (C/O ARVIZU).

11) PLAINTIFF ASSERT THAT C/O GARRETT, C/O ARVIZU AND SGT. CATLETT HAD BEEN REPEATEDLY MADE AWARE OF THE NEEDED MOVE TO A BOTTOM BUNK AND THE SERIOUSNESS OF PLAINTIFF MEDICAL CONDITION, DISABILITY AND THE RISK OF FURTHER

INJURY. PLAINTIFF ASSERT THAT HE HAD BEEN EXPERIENCING " SEVERE PAIN / SWELLING " OF THE (R) KNEE AS A RESULT OF JUMPING. UP! TO THE UPPER BUNK AND COMING DOWN FROM THE BUNK ON THE INJURED (R) LEG / KNEE. AND PLAINTIFF IS CURRENTLY EXPERIENCING SEVERE PAIN IN THE (R) KNEE.

12) PLAINTIFF ASSERT THAT CELL # 144, LOCATED AT FACILITY B, BUILDING #1, WAS " VACANT" FOR SEVEN DAYS AND THE NAMED STAFF FAILED TO ACT; ASSERTING THAT SAID CELL IS LOCATED ON THE BOTTOM TIER, ELEVEN CELLS DOWN FROM PLAINTIFF THEN CELL # 133.

13) SGT. CATLETT "DID NOT ". SUBMIT. THE CDC 602 TO THE APPEALS COORDINATOR NOR WAS SAID CDC 602 RETURNED TO PLAINTIFF.

14) CDC 602 DATED 03-29-06 FOLLOWED AS A RESULT OF SGT. CATLETT FAILURE TO SUBMIT THE "PREVIOUS " CDC 602 TO THE APPEALS COORDINATOR NOR WAS SAID "PREVIOUS" CDC 602 RETURNED TO PLAINTIFF.

15) THE APPEALS COORDINATOR ATTACHED A CDC 1824 TO THE CDC 602 DATED 03-29-06, (WHICH IS IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICAN WITH DISABILITY ACT.)

16) THE CDC 602 DATED 03-29-06 WITH ATTACHED CDC 1824) WAS REVIEWED BY SGT. CATLETT, WHICH WAS IN VIOLATION OF 15 CCR § 3084.5. (e)[1/] PLAINTIFF WAS PERSONALLY INTERVIEWED BY SGT. CATLETT ON 04-25-06, AND SGT. CATLETT "DENIED" PLAINTIFF CDC 1824; CAPTAIN W.J. PRICE REVIEWED THE CDC 1824 FOR THE FIRST LEVEL AND "DENIED" PLAINTIFF'S CDC 1824 ON 4-25-06 AND LATER PARTIALLY GRANTED PLAINTIFFS CDC 1824, (DATE UNKNOWN; "DO NOT" REFLECT ON FIRST LEVEL RESPONSE); CHIEF DEPUTY WARDEN (A) M.E. BOURLAND REVIEWED THE CDC 1824 FOR THE SECOND

1/ APPEAL REVIEW. FORMAL APPEALS "SHALL" NOT BE REVIEWED BY A STAFF PERSON WHO PARTICIPATED IN THE EVENT OR DECISION BEING APPEALED, OR WHO IS OF LOWER ADMINISTRATIVE RANK THAN ANY PARTICIPATING STAFF, OR WHO PARTICIPATED IN REVIEW OF A LOWER LEVEL APPEAL REFILED AT A HIGHER LEVEL.

LEVEL AND PARTIALLY GRANTED PLAINTIFFS CDC 1824 ON 05-30-06; AND ON 06-28-06, THE SECRETARY AND OR DIRECTOR OF CDCR DENIED SAID APPEAL (LOCAL LOG NO. CAL-06-00951).

17) THIS IS AN ACTION ARISING UNDER THE EIGHT AND FOURTEENTH AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES AND TITLE 42 OF THE UNITED STATES CODE SECTION 1981 AND 1983 AND 12131 et seq. 12101(b)(4) TITLE II (ADA) AND TITLE 29 OF THE UNITED STATES CODE 794 SECTION 504 (REHABILITATION ACT), ALLEGING VIOLATIONS OF PLAINTIFF'S CIVIL AND HUMAN RIGHTS, AND RIGHTS UNDER THE AMERICANS WITH DISABILITIES ACT AND THE REHABILITATION ACT, WHILE IN THE CUSTODY OF THE CALIFORNIA DEPARTMENT OF CORRECTION AND CORRECTIONAL OFFICERS AND CORRECTIONAL OFFICIALS THEREIN AT CALIPATRIA STATE PRISON. PLAINTIFF NEHEMIAH ROBINSON, WAS INJURED PHYSICALLY, MENTALLY AND EMOTIONALLY WHEN CORRECTIONAL OFFICERS AND CORRECTIONAL OFFICIALS DEFENDANTS' T. CATLETT (SERGEANT), B. GARRETT (CORRECTIONAL OFFICER), M. ARVIZU (CORRECTIONAL OFFICER), W. J. PRICE (FACILITY CAPTAIN), M.E. BOURLAND (CHIEF DEPUTY WARDEN (A)(FORMER), AND THE SECRETARY AND OR DIRECTOR OF CDCR IN CALIFORNIA; ACTED IN THEIR OFFICIAL / INDIVIDUAL CAPACITY TO VIOLATE THE PLAINTIFF CIVIL AND CONSTITUTIONAL RIGHTS WHEN INDIVIDUALLY AND COLLECTIVELY DELIBERATELY INDIFFERENTLY DENIED PLAINTIFF COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK. AND PLAINTIFF ALLEGES THAT THE PRACTICES IMPLEMENTED BY PRISON OFFICIALS AND PRISON OFFICERS DISCRIMINATED AGAINST HIM ON THE BASIS OF DISABILITY IN VIOLATION OF THE AMERICAN WITH DISABILITY ACT (ADA) AND OF THE REHABILITATION ACT, AS WELL AS VIOLATED THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT, AND THE HARM IS PART OF A PATTERN OF OFFICIALLY SANCTIONED . . . BEHAVIOR, VIOLATIVE OF THE PLAINTIFF'S [FEDERAL]. RIGHTS.

18) DEFENDANT T. CATLETT (SERGEANT) DELIBERATELY INDIFFERENTLY DISCRIMINATED AGAINST PLAINTIFF ON THE BASIS OF DISABILITY AND DENIED PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE

DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

19) DEFENDANT B. GARRETT (CORRECTIONAL OFFICER) DELIBERATELY INDIFFERENTLY DISCRIMINATED AGAINST PLAINTIFF ON THE BASIS OF DISABILITY AND DENIED PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

20) DEFENDANT M. ARVIZU (CORRECTIONAL OFFICER) DELIBERATELY INDIFFERENTLY DISCRIMINATED AGAINST PLAINTIFF ON THE BASIS OF DISABILITY AND DENIED PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

21) DEFENDANT W.J. PRICE (FACILITY CAPTAIN) DELIBERATELY INDIFFERENTLY DISCRIMINATED AGAINST PLAINTIFF ON THE BASIS OF DISABILITY AND DENIED PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH. AND DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE MISCONDUCT.

22) DEFENDANT M.E. BOURLAND (CHIEF DEPUTY WARDEN (A) (FORMER) DELIBERATELY INDIFFERENTLY DISCRIMINATED AGAINST PLAINTIFF ON THE BASIS OF DISABILITY AND DENIED PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED

WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH. AND DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE MISCONDUCT.

23) DEFENDANT SECRETARY AND OR DIRECTOR OF CDCR DELIBERATELY INDIFFERENTLY DISCRIMINATED AGAINST PLAINTIFF ON THE BASIS OF DISABILITY AND DENIED PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH. AND DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE MISCONDUCT.

24) THE DEFENDANTS AND EACH OF THE FOREMENTIONED IN THIS COMPLAINT KNEW OR SHOULD HAVE KNOWN THAT REPEATED DENIAL OF PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK AND DISCRIMINATION AGAINST PLAINTIFF ON THE BASIS OF DISABILITY, WAS AN UNCONSTITUTIONAL ACT, WHICH THEY WERE REQUIRED TO PREVENT OR REPORT AS AN ACT OF MISCONDUCT. THE PLAINTIFF OF THE FOREGOING ACTION ALLEGES THAT HE HAS BEEN DAMAGED AND SUFFERS FROM SEVERE PAIN AND DISABILITY FOR WHICH HE SEEKS COMPENSATORY, NOMINAL, AND PUNITIVE DAMAGES OR AN AWARD BY TRIAL OR JURY.

Count 2: The following civil right has been violated: / 8TH AMEND. (CRUEL AND UNUSUAL PUNISHMENT) / 14TH AMEND. (EQUAL PROTECTION / DUE PROCESS); 42 U.S.C. § 12131 et. seq. 12101(b)(4) TITLE II (ADA); 29 U.S.C. § 794 SECT. 504 (REHABILITATION ACT); PENNSYLVANIA DEPT. OF CORRECTIONS V. YESKEY (1998) 524 U.S. 206 [118 S.Ct. 1952; 141 L.Ed. 2d. 215]. (E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 2.]

25) PLAINTIFF RE-ALLEGES AND INCORPORATE BY REFERENCE EACH ALLEGATION IN PARAGRAPH NO. 1, 2, AND 3) INCLUSIVE AS IF ALLEGED HERE IN.

26) ON 02-14-07, THE CHIEF MEDICAL OFFICIAL APPROVED THE RENEWAL OF PLAINTIFF'S CDC 7410 (COMPREHENSIVE ACCOMMODATION CHRONO) (HERE AFTER "CDC 7410") FOR PLAINTIFF TO POSSESS A MEDICAL APPLIANCE / EQUIPMENT TO WIT, A WALKING CANE.

27) ON 08-17-07, AT FACILITY B, YARD #1, AT APPROXIMATELY 1129 HRS, PLAINTIFF WAS FALSELY ACCUSED / CHARGED WITH THE SPECIFIC ACT OF "BATTERY ON AN INMATE W/ WEAPON"; REMOVED FROM 6.P 3/AND PLACED IN ADMINISTRATIVE SEGREGATION.

28) ON 05-30-08, AT APPROXIMATELY 1100 HRS, THE SENIOR HEARING OFFICER MR. R. DAVIS, CORR. LIEUTENANT, HEARD THE RULE VIOLATION REPORT DATED 08-17-07 (LOG. NO 08-07-B20) AND REVIEWED DOCUMENTS, CRIME INCIDENT REPORT DATED 08-17-07 (INCIDENT LOG NO. CAL-FBY-07-08-0240) AND ALLEGED EVIDENCE. MR. DAVIS, CORR. LIEUTENANT, MADE HIS FINDING AND FOUND PLAINTIFF "NOT GUILTY" OF VIOLATION OF 15 CCR 3005 Ⓒ FOR THE SPECIFIC ACT OF "BATTERY ON INMATE W/ WEAPON." THE FINDING WAS BASED UPON THE LACK OF THE EVIDENCE SUBMITTED AT THE HEARING. THIS EVIDENCE INCLUDED: 1) NO MEDICAL STAFF AVAILABLE TO SUPPORT THE CLAIM OF THE SUSTAINED INJURY WAS CAUSED BY THE WEAPON FOUND (WOOD CANE), 2) NO STAFF MEMBER SEEING ANY CONTACT OR BATTERY, 3) NO STAFF MEMBER SEEING HOW INMATE CLARK RECEIVED HIS WOUND, 4) THE VICTIM "RE-"STATING HIS RECEIVING INJURY FROM FALLING, 5) PHOTO'S OF THE WOOD CANE SUPPLIED FROM SECURITY AND INVESTIGATIONS SHOWING "NO" BLOOD ON THE CANE, 6) THE CHAIN OF EVIDENCE NOT BEING MAINTAINED FROM TIME OF INCIDENT. MR. DAVIS, CORR. LIEUTENANT, FURTHER STATED THAT "BASED ON NO ONE SEEING A BATTERY, NO MEDICAL VERIFICATION INDICATING CONSISTENCE OF INJURY TO WEAPON, CHAIN OF EVIDENCE NOT MAINTAINED OF "SUPPOSED" WEAPON AND THE "SUPPOSED" VICTIM GIVING TESTIMONY THAT

INMATE ROBINSON "WAS NOT" RESPONSIBLE FOR HIS INJURY. MR. DAVIS, CORR. LIEUTENANT SPECIFICALLY STATED "THE RVR IS DISMISSED DUE TO INSUFFICIENT EVIDENCE."

29) MR. G. J. JANDA (A.W), CHIEF DISCIPLINARY OFFICER, FINAL AUDITED THE RVR (RULE VIOLATION REPORT) DATED 08-17-07 (LOG NO. 08-07-B20) ON 06-11-08 REAFFIRMING MR. DAVIS, CORR. LIEUTENANT, SENIOR HEARING OFFICER, FINDING AND DISPOSITION.

30) ON 08-17-07, SGT. T. CATLETT AUTHORED, GENERATED AND SIGNED A FALSIFIED CDC 128-B GENERAL CHRONO (INFORMATIONAL - PROPERTY CONFISCATION) AUTHORIZING AND APPROVING CONFISCATION OF PLAINTIFF'S WALKING CANE. SGT. T. CATLETT USED AS A REFERENCE CRIME/INCIDENT REPORT (INCIDENT LOG NO. CAL-FBY-07-08-0240) AND FALSELY FABRICATED A STATEMENT ALLEGING TO BE IN THE CRIME/INCIDENT REPORT AS MEANS TO PREVENT PLAINTIFF FROM EVER BEING ABLE TO POSSESS A WALKING CANE, TO HELP PLAINTIFF PERFORM THE DAILY ACTIVITIES OF LIFE AND FUNCTION PROPERLY. SGT. T. CATLETT, IN HIS CDC 128-B GENERAL CHRONO (INFORMATIONAL - PROPERTY CONFISCATION), DATED 08-17-07, KNOWINGLY AND INTENTIONALLY STATED/DOCUMENTED ALLEGING SPECIFICALLY THAT "PLAINTIFF WAS OBSERVED . . . STRIKING THE OTHER INMATE NUMEROUS TIMES WITH THE CANE." NO EVIDENCE OF SUCH FALSELY SUBMITTED STATEMENTS WERE NEVER CORROBORATED NOR SUSTAINED.

31) ON 08-17-07, LT. R. JOHNSON KNOWINGLY AND INTENTIONALLY MIS-STATED THE FACTS OF THE EVIDENCE, AND FALSIFIED AND FABRICATED STATEMENTS IN HIS CRIME/INCIDENT REPORT (INCIDENT LOG NO. CAL-FBY-07-08-0240), DATED 08-17-07, CDCR 837-A, A1 COVER SHEET/SUPPLEMENTAL REPORT, WHICH SET IN MOTION THE ACT COMMITTED BY SGT. T. CATLETT. LT. R. JOHNSON KNOW OR REASONABLY SHOULD KNOW THAT BY HIM (LT. R. JOHNSON) BEING A SUPERIOR OFFICER SPECIFICALLY DOCUMENTING FALSE/FABRICATED STATEMENTS THAT "INMATE CLARK RECEIVED A BLOW TO HIS HEAD THIS INJURY WAS CLEARLY A RESULT

OF INMATE ROBINSON STRIKING INMATE CLARK ON THE HEAD WITH A CANE..." AND SPECIFICALLY STATE "THIS REPORT IS A COMPILATION OF INVOLVED STAFFS WRITTEN REPORTS FOR A MORE DETAILED AND DESCRIPTIVE REPORT REFER TO THE APPROPRIATE CDCR 837 C/CI", WOULD CAUSE HIS SUBORDINATE OFFICER (SGT. T. CATLETT) TO INFLICT THE CONSTITUTIONAL INJURY ALLEGED BY PLAINTIFF. NO EVIDENCE OF SUCH FALSELY SUBMITTED STATEMENTS WERE NEVER CORROBORATED NOR SUSTAINED.

32) PLAINTIFF ASSERT THAT SGT. T. CATLETT AND LT. R. JOHNSON WERE / IS AWARE OF PLAINTIFF'S SERIOUS MEDICAL CONDITIONS AND DISABILITY TO WIT (R) KNEE INJURY AND THE RISK OF FURTHER INJURY WITHOUT POSSESSION / USE OF HIS WALKING CANE.

33) PLAINTIFF ASSERT THAT HE HAS BEEN EXPERIENCING SEVERE PAIN / SWELLING OF THE (R) KNEE AS A RESULT OF THE UNCONSTITUTIONAL AND ILLEGAL ACTS OF MISCONDUCT COMMITTED BY LT. R. JOHNSON AND SGT. T. CATLETT.

34) THE CDC 602 DATED 09-12-07 (LOCAL LOG NO. CAL-07-0169) WAS REVIEWED BY LT. R. JOHNSON, WHICH WAS IN VIOLATION OF 15 CCR § 3084.5.(e)[3] PLAINTIFF WAS PERSONALLY INTERVIEWED BY LT. R. JOHNSON ON 10-13-07, AND LT. R. JOHNSON PARTIALLY GRANTED PLAINTIFF'S CDC 602 FOR: THE FIRST LEVEL; CHIEF DEPUTY WARDEN T. OCHOA REVIEWED THE CDC 602 FOR THE SECOND LEVEL AND PARTIALLY GRANTED PLAINTIFFS CDC 602 ON 11-14-07; AND ON 03-05-08, THE SECRETARY AND OR DIRECTOR OF CDCR DENIED SAID APPEAL.

2/ G.P MEANS "GENERAL POPULATION."

3/ APPEAL REVIEW. FORMAL APPEALS "SHALL" NOT BE REVIEWED BY A STAFF PERSON WHO PARTICIPATED IN THE EVENT OR DECISION BEING APPEALED, OR WHO IS OF LOWER ADMINISTRATIVE RANK THAN ANY PARTICIPATING STAFF, OR WHO PARTICIPATED IN REVIEW OF A LOWER LEVEL APPEAL REFILED AT A HIGHER LEVEL.

35) THIS IS AN ACTION ARISING UNDER THE EIGHT AND FOURTEENTH AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES AND TITLE 42 OF THE UNITED STATES CODE SECTION 1981 AND 1983 AND 12131 et seq. (ADA) AND TITLE II OF THE UNITED STATES CODE SECTION 12101 (b) (4) (ADA) AND TITLE 29 OF THE UNITED STATES CODE. 794 SECTION 504 (REHABILITATION ACT), ALLEGING VIOLATIONS OF PLAINTIFF'S CIVIL AND HUMAN RIGHTS, AND RIGHTS UNDER THE AMERICANS WITH DISABILITIES ACT AND THE REHABILITATION ACT, WHILE IN THE CUSTODY OF THE CALIFORNIA DEPARTMENT OF CORRECTION AND CORRECTIONAL OFFICERS AND CORRECTIONAL OFFICIALS HERE IN AT CALIPATRIA STATE PRISON. PLAINTIFF NEHEMIAH ROBINSON, WAS INJURED PHYSICALLY, MENTALLY AND EMOTIONALLY WHEN CORRECTIONAL OFFICERS AND CORRECTIONAL OFFICIALS DEFENDANT'S T. CATLETT (SERGEANT), R. JOHNSON (LIEUTENANT), T. OCHOA (CHIEF DEPUTY WARDEN), AND THE SECRETARY AND OR DIRECTOR OF CDCR IN CALIFORNIA; ACTED IN THEIR OFFICIAL, INDIVIDUAL CAPACITY TO VIOLATE THE PLAINTIFF CIVIL AND CONSTITUTIONAL RIGHTS WHEN INDIVIDUALLY AND COLLECTIVELY DELIBERATELY INDIFFERENTLY DENIED PLAINTIFF COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE. AND PLAINTIFF ALLEGES THAT THE PRACTICES IMPLEMENTED BY PRISON OFFICIALS AND PRISON OFFICERS DISCRIMINATED AGAINST HIM ON THE BASIS OF DISABILITY IN VIOLATION OF THE AMERICANS WITH DISABILITY ACT (ADA) AND OF THE REHABILITATION ACT, AS WELL AS VIOLATED THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT, AND THE HARM IS PART OF A PATTERN OF OFFICIALLY SANCTIONED... BEHAVIOR, VIOLATIVE OF THE PLAINTIFF'S [FEDERAL] RIGHTS.

36) DEFENDANT T. CATLETT (SERGEANT) DELIBERATELY INDIFFERENTLY DISCRIMINATED AGAINST PLAINTIFF ON THE BASIS OF DISABILITY AND DENIED PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED

PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

37) DEFENDANT R. JOHNSON (LIEUTENANT) DELIBERATELY INDIFFERENTLY MIS-STATED THE FACTS OF THE EVIDENCE AND FALSIFIED AND FABRICATED STATEMENTS IN HIS CRIME/INCIDENT REPORT, CDCR 837-A, A1 COVER SHEET/ SUPPLEMENTAL REPORT, WHICH SET IN MOTION THE CONSTITUTIONAL INJURY INFLICTED BY SGT. T. CATLETT, DISCRIMINATED AGAINST PLAINTIFF ON THE BASIS OF DISABILITY AND PARTICIPATED, AND DENIED PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

38) DEFENDANT T. OCHOA (CHIEF DEPUTY WARDEN) DELIBERATELY INDIFFERENTLY DISCRIMINATED AGAINST PLAINTIFF ON THE BASIS OF DISABILITY AND DENIED PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH. AND DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE MISCONDUCT.

39) DEFENDANT SECRETARY AND OR DIRECTOR OF CDCR DELIBERATELY INDIFFERENTLY DISCRIMINATED AGAINST PLAINTIFF ON THE BASIS OF DISABILITY AND DENIED PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH. AND DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE MISCONDUCT.

40) THE DEFENDANTS' AND EACH FORE MENTIONED IN THIS COMPLAINT KNEW OR SHOULD HAVE KNOWN THAT DENIAL OF PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE AND DISCRIMINATION AGAINST PLAINTIFF ON THE BASIS OF DISABILITY, AND PREPARING FALSE EVIDENCE AND OFFERING FALSE EVIDENCE AGAINST ANY PERSON OR PRISONER INTENDED SPECIFICALLY FOR PUNISHMENT, WAS ILLEGAL AND UNCONSTITUTIONAL ACT. EVERY PEACE OFFICER WHO FILES ANY REPORT WITH THE AGENCY WHICH EMPLOYS HIM OR HER REGARDING THE COMMISSION OF ANY CRIME OR ANY INVESTIGATION OF ANY CRIME, IF HE OR SHE KNOWINGLY AND INTENTIONALLY MAKES ANY STATEMENT REGARDING ANY MATERIAL MATTER IN THE REPORT WHICH THE OFFICER KNOWS TO BE FALSE, WHETHER OR NOT THE STATEMENT IS CERTIFIED OR OTHERWISE EXPRESSLY REPORTED AS TRUE, IS GUILTY OF FILING A FALSE REPORT PUNISHABLE BY IMPRISONMENT IN THE COUNTY JAIL OR THE STATE PRISON. THE DEFENDANTS' ACTIONS WERE ILLEGAL AND UNCONSTITUTIONAL, AND PER. 15 CCR § 3291 (a)(b)(c)[4], THEY WERE REQUIRED TO PREVENT OR REPORT AS AN ACT OF CRIMINAL MISCONDUCT. THE PLAINTIFF OF THE FORE GOING ACTIONS ALLEGES THAT HE HAS BEEN DAMAGED AND SUFFERS FROM SEVERE PAIN AND DISABILITY FOR WHICH HE SEEKS COMPENSATORY, NOMINAL, AND PUNITIVE DAMAGES OR AN AWARD BY TRIAL OR JURY.

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[4] 15 CCR § 3291 (a)(b)(c) STATE:

(a) LAW ENFORCEMENT RESPONSIBILITY. ALL EMPLOYEES OF THE DEPARTMENT "SHALL" BE RESPONSIBLE TO ENFORCE LAWS, REGULATIONS AND PROCEDURES, WHICH GOVERN THE ACTIONS AND ACTIVITIES OF INMATES, PAROLEES AND OF PERSONS WHO COME INTO CONTACT WITH INMATES AND PAROLEES. EMPLOYEES WHO ARE NOT DESIGNATED AS PEACE OFFICERS, WHOSE NORMAL ASSIGNED JOB DUTIES DO NOT REQUIRE CUSTODY AND SUPERVISION OF INMATES OR PAROLEES, OR IN SITUATIONS WHERE IT WOULD BE INAPPROPRIATE OR UNSAFE TO INTERVENE IN UNAUTHORIZED ACTIONS OR SEEK THE ASSISTANCE OF OTHER EMPLOYEES INCLUDING PEACE OFFICER EMPLOYEES. IN AN EMERGENCY, ALL EMPLOYEE SHALL RESPOND AS DIRECTED BY PROPER AUTHORITY.

(b) PEACE OFFICER PERSONNEL. PEACE OFFICERS ARE DEPARTMENT EMPLOYEES HOLDING PEACE OFFICERS POSITIONS AS DEFINED BY LAW OR AS DESIGNATED BY THE DIRECTOR OF CORRECTIONS. NON PEACE-OFFICER EMPLOYEES TEMPORARILY ASSIGNED TO PERFORM ONLY THE ADMINISTRATIVE DUTIES OF POSITIONS HELD BY PEACE OFFICERS SHALL NOT BE DESIGNATED AS PEACE OFFICERS.

(C) THE PEACE OFFICER AUTHORITY OF EMPLOYEES IN (b) EXTENDS ONLY TO THE AUTHORITY NECESSARY TO PERFORM THE DUTIES ASSIGNED TO THEM, AND AS SPECIFICALLY AUTHORIZED BY THE DIRECTOR IN STATE EMERGENCY AND MUTUAL AID AGREEMENTS. EMPLOYEES DESIGNATED IN SUBSECTION 3291 (b) ARE PEACE OFFICERS WHEN PERFORMING THE DUTIES OF THEIR EMPLOYMENT WITHIN THIS STATE, AND RETAIN THAT STATUS OUTSIDE THIS STATE WHEN THEY ARE TRANSPORTING PRISONERS OR APPREHENDING PRISONERS WHO HAVE ESCAPED.

Count 3: The following civil right has been violated: 8TH AMEND. (CRUEL AND UNUSUAL PUNISHMENT) 14TH AMEND. (EQUAL PROTECTION/DUE PROCESS); 42 U.S.C.§12131 et; seq. (ADA) / TITLE II §12101(b)(4)(ADA); 29 U.S.C. §794 SECTION 504 (REHABILITATION ACT); PENNSYLVANIA DEPT. OF CORRECTIONS V. YESKEY (1998) 542 U.S. 206 [118 S.Ct. 1952; 141 L.Ed. 2d. 215]. (E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 3. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 3.]

41) PLAINTIFF RE-ALLEGES AND INCORPORATE BY REFERENCE EACH ALLEGATION IN PARAGRAPHS NO. 1, 2, 3, 26, 27, 28, 29, 30, 31, 32, AND 33) INCLUSIVE AS IF ALLEGED HERE IN.

42) ON 08-23-07, PLAINTIFF WAS SCREENED IN PERSON IN ICC (COMMITTEE) FOR THE PURPOSE OF AN INITIAL ASU (ADMINISTRATIVE SEGREGATION UNIT) PLACEMENT.

43) PLAINTIFF WAS ESCORTED TO ICC (COMMITTEE) BY CORRECTIONAL OFFICER R. WHIDMAN (HERE AFTER "C/O WHIDMAN") AND PLAINTIFF WAS FORCED TO WALK A DISTANCE TO THE HEARING LOCATION WITHOUT THE ACCOMMODATION REQUIREMENT TO WIT, WALKING CANE.

44) THE CHAIRMAN OF ICC (COMMITTEE) G.J. JANDA (A.W) OBSERVED PLAINTIFF LIMPING BADLY WHILE ENTERING THE ROOM OR PLACE IN WHICH THE HEARING WAS HELD. G.J. JANDA (A.W) THEN ASKED PLAINTIFF "WHAT IS WRONG WITH YOUR LEG?" AND PLAINTIFF MADE G.J. JANDA (A.W) AWARE OF THE FACT THAT HIS WALKING CANE WAS UNJUSTLY AND ILLEGALLY CONFISCATED ON 08-17-07, AND PLAINTIFF EXPRESSED IN GREAT DETAIL THE SERIOUSNESS OF PLAINTIFF'S MANY MEDICAL CONDITIONS AND DISABILITY; WHICH G.J. JANDA WAS AWARE OF BECAUSE PLAINTIFF'S CENTRAL FILE WAS BEFORE HIM WHICH CONTAINS DOCUMENTED CHRONOS VERIFYING PLAINTIFF'S NEED FOR ACCOMMODATION TO WIT, WALKING CANE.

45) PLAINTIFF ASSERT THAT HE MADE G.J. JANDA (A.W) AWARE OF THE FACT THAT HE HAS BEEN IN "SEVERE PAIN AND THAT PLAINTIFF (R) KNEE HAS BEEN SWELLING" AS A RESULT OF THE UNJUST CONFISCATION OF PLAINTIFF'S WALKING CANE.

46) PLAINTIFF ASSERT THAT G.J. JANDA (A.W) THEN INSTRUCTED C/O WHIDMAN "TO GO AND GET PLAINTIFF HIS OR A WALKING CANE"; BUT THIS WAS NOT DONE.

47) C/O WHIDMAN FAILED TO FOLLOW THE SPECIFIC INSTRUCTION OR ORDER GIVEN TO HIM BY HIS SUPERIOR OFFICIAL, G. J. JANDA, AND ONLY ISSUED PLAINTIFF A CDC 7362 (HEALTH CARE SERVICES REQUEST FORM), AND C/O WHIDMAN INSTRUCTED PLAINTIFF TO FILL-OUT THE CDC 7362 AND SUBMIT IT TO MEDICAL.

48) G.J. JANDA (A.W) WAS NOT PRESENT WHEN C/O WHIDMAN ISSUED PLAINTIFF THE CDC 7362 (HEALTH CARE SERVICES REQUEST FORM), NOR WAS G.J. JANDA (A.W) PRESENT TO OBSERVE OR HEAR C/O WHIDMAN INSTRUCT PLAINTIFF TO FILL-OUT THE CDC 7362 AND SUBMIT IT TO MEDICAL. C/O WHIDMAN COMMITTED THIS ACT OF MISCONDUCT WHILE ESCORTING AND PLACING PLAINTIFF BACK INTO HIS THEN CELL (A-5-#125), "AGAIN" PLAINTIFF WAS ESCORTED AND FORCED TO WALK A DISTANCE WITHOUT THE ACCOMMODATION REQUIREMENT TO WIT, WALKING CANE.

49) PLAINTIFF ASSERT THAT HE REPEATEDLY ASKED C/O WHIDMAN FOR HIS OR A WALKING CANE FOR NEARLY A MONTH, IF NOT LONGER. PLAINTIFF WAS EXPERIENCING SEVERE PAIN IN HIS (R) KNEE AND SWELLING OF THE (R) KNEE.

50) PLAINTIFF ASSERT THAT HE WAS ESCORTED TO SHOWERS FOR NEARLY A MONTH, IF NOT LONGER, WITHOUT THE ACCOMMODATED REQUIREMENT TO WIT, WALKING CANE, AND TO MEDICAL, AND ON ONE OCCASION TO THE EXERCISE YARD GROUP #5. PLAINTIFF EXPERIENCED SEVERE PAIN DURING THESE ESCORTS IN HIS (R) KNEE AND SWELLING OF THE (R) KNEE.

51) PLAINTIFF ASSERT THAT HE SUBMITTED SEVERAL HEALTH CARE SERVICES REQUEST (CDC 7362) REQUESTING A WALKING CANE AND PAIN MEDICATION DOSAGE TO INCREASE DUE TO SEVERE PAIN IN THE (R) KNEE.

52) ON 08-27-07 AND 08-29-07, LVN AUGERS AND R.N C. RODILES, BOTH MADE PLAINTIFF AWARE OF THE FACT THAT CUSTODY OFFICERS/OFFICIALS WAS PREVENTING PLAINTIFF FROM RECEIVING A WALKING CANE.

53) THE CDC 1824 DATED 09-11-07 WAS REVIEWED BY LT. R. NELSON, JR. FOR THE FIRST LEVEL AND GRANTED PLAINTIFFS CDC 1824 ON 09-20-07 AND ON 09-25-07 (CAL-A-070-1747) G.J. JANDA (A.W) APPROVED, LT. R. NELSON, JR'S

DISPOSITION.

54) THIS IS AN ACTION ARISING UNDER THE EIGHT AND FOURTEENTH AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES AND TITLE 42 OF THE UNITED STATES CODE SECTION 1981 AND 1983 AND 12131 et seq. (ADA) AND TITLE II OF THE UNITED STATES CODE SECTION 12101 (b) (4) (ADA) AND TITLE 29 OF THE UNITED STATES CODE 794 SECTION 504 (REHABILITATION ACT), ALLEGING VIOLATIONS OF PLAINTIFF'S CIVIL AND HUMAN RIGHTS, AND RIGHTS UNDER THE AMERICANS WITH DISABILITIES ACT AND THE REHABILITATION ACT, WHILE IN THE CUSTODY OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND CORRECTIONAL OFFICERS AND CORRECTIONAL OFFICIALS HERE IN AT CALIPATRIA STATE PRISON. PLAINTIFF NEHEMIAH ROBINSON, WAS INJURED PHYSICALLY, MENTALLY AND EMOTIONALLY WHEN CORRECTIONAL OFFICERS AND CORRECTIONAL OFFICIALS DEFENDANT'S R. WHIDMAN (CORRECTIONAL OFFICER), R. NELSON, JR. (LIEUTENANT), AND G.J. JANDA (ASSOCIATE WARDEN); ACTED IN THEIR OFFICIAL/INDIVIDUAL CAPACITY TO VIOLATE THE PLAINTIFF CIVIL AND CONSTITUTIONAL RIGHTS WHEN INDIVIDUALLY AND COLLECTIVELY DELIBERATELY INDIFFERENTLY **DENIED** PLAINTIFF COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE. AND PLAINTIFF ALLEGES THAT THE PRACTICES IMPLEMENTED BY PRISON OFFICIALS AND PRISON OFFICERS DISCRIMINATED AGAINST HIM ON THE BASIS OF DISABILITY IN VIOLATION OF THE AMERICANS WITH DISABILITY ACT, AS WELL AS VIOLATED THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT, AND THE HARM IS PART OF A PATTERN OF OFFICIALLY SANCTIONED . . . BEHAVIOR, VIOLATIVE OF THE PLAINTIFF'S [FEDERAL] RIGHTS.

55) DEFENDANT R. WHIDMAN (CORRECTIONAL OFFICER) DELIBERATELY INDIFFERENTLY DISCRIMINATED AGAINST PLAINTIFF ON THE BASIS OF DISABILITY AND DENIED PLAINTIFF'S **COMPREHENSIVE** ACCOMMODATION TO POSSESS A WALKING CANE, AND COMMITTED AN ACT OF INSUBORDINATION WHEN HE FAILED TO CARRY·OUT THE INSTRUCTION OR ORDER GIVEN BY HIS SUPERIOR, G.J. JANDA (A.W), "TO GO

AND GET PLAINTIFF HIS OR A WALKING CANE," KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

56) DEFENDANT R. NELSON, JR (LIEUTENANT) DELIBERATELY INDIFFERENTLY DISCRIMINATED AGAINST PLAINTIFF ON THE BASIS OF DISABILITY AND DENIED PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH. AND DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE MISCONDUCT.

57) DEFENDANT G. J. JANDA (ASSOCIATE WARDEN) DELIBERATELY INDIFFERENTLY DISCRIMINATED AGAINST PLAINTIFF ON THE BASIS OF DISABILITY AND DENIED PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH. AND DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE MISCONDUCT.

58) THE DEFENDANTS' AND EACH FORE MENTIONED IN THIS COMPLAINT KNEW OR SHOULD HAVE KNOWN THAT DENIAL OF PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE AND DISCRIMINATION AGAINST PLAINTIFF ON THE BASIS OF DISABILITY[5/] WAS AN UNCONSTITUTIONAL ACT, WHICH THEY WERE REQUIRED TO PREVENT OR REPORT AS AN ACT OF MISCONDUCT. THE PLAINTIFF OF THE FOREGOING ACTION ALLEGES THAT HE HAS BEEN DAMAGED AND SUFFERS FROM SEVERE PAIN AND DISABILITY FOR WHICH HE SEEKS

COMPENSATORY, NOMINAL, AND PUNITIVE DAMAGES OR AN AWARD BY TRIAL OR JURY.

5/ PLAINTIFF ASSERT THAT ON INFORMATION AND BELIEF THE UNITED STATES DISTRICT COURT, NORTHERN DISTRICT, A COURT ORDER WAS ENTERED IN A LAWSUIT CALLED " ARMSTRONG V. DAVIS (HERE AFTER " ARMSTRONG V. SCHWARZENEGGER) ARMSTRONG IS A FEDERAL CIVIL RIGHTS CLASS ACTION TO ENFORCE THE FEDERAL LAWS THAT PROHIBIT DISCRIMINATION AGAINST PERSONS WITH DISABILITIES. THESE FEDERAL LAWS ARE THE AMERICANS WITH DISABILITY ACT ("ADA") AND REHABILITATION ACT. THE ARMSTRONG LAWSUIT WAS BROUGHT AGAINST THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION ("CDCR") AND THE **BPH** (BOARD OF PAROLE HEARINGS) ON BEHALF OF INMATES AND PAROLEES WITH "MOBILITY", VISION, HEARING, KIDNEY, AND LEARNING DISABILITIES, SUCH AS MENTAL RETARDATION, CEREBRAL PALSY, AUTISM AND EPILEPSY. INMATES THAT HAVE ONE OF THESE DISABILITIES ARE A MEMBER OF PLAINTIFF CLASS. INMATES DO NOT HAVE TO TAKE ANY ACTION TO JOIN THE CLASS

ARMSTRONG V. SCHWARZENEGGER, COURT ORDER REMEDIAL PLAN (AMENDED JANUARY 3, 2001) AT P. 18-19 PARAGRAPHS NO. 1, 2, AND 3: SPECIFICALLY AUTHORIZE PLAINTIFF'S USE AND POSSESSION OF A WALKING CANE; AT P. 34-35 PARAGRAPH 22: SPECIFICALLY STATE THE MANDATORY PROCEDURES TO BE ENFORCED BY CORRECTIONAL OFFICERS/OFFICIALS WHEN HEALTH CARE APPLIANCES ARE TAKEN AWAY, AND CORRECTIONAL OFFICERS/OFFICIALS FAILED IN THEIR MANDATORY DUTY TO ENFORCE THE POLICY/PROCEDURES IN THE ARMSTRONG V. SCHWARZENEGGER COURT ORDERED REMEDIAL PLAN.

IN UNITED STATES V. GEORGIA, 126 S. Ct. 877 (2006) THE UNITED STATES SUPREME COURT UNANIMOUSLY RULED THAT THE PRIVATE CAUSE OF ACTION CREATED BY THE AMERICANS WITH DISABILITY ACT (ADA) (42 U.S.C. § 12131 et seq.), WHICH PERMITS DISABLED STATE PRISONERS TO SUE "PRISON OFFICIALS" FOR DAMAGES RESULTING FROM VIOLATIONS OF PRISONERS' CONSTITUTIONAL RIGHTS, TAKES PRECEDENCE OVER ("VALIDLY ABROGATES") THE STATES DEFENSE OF SOVEREIGN IMMUNITY, AT LEAST AS TO ACTUAL VIOLATION OF THE "FOURTEENTH AMENDMENT". THE COURT PREVIOUSLY HELD THAT THE ADA APPLIES TO STATE PRISONS (SEE PENNSYLVANIA DEPT. OF CORRECTIONS V. YESKEY, 524 U.S. 206 (1998). MOREOVER, 42 U.S.C. § 12101 (b)(4) EXPRESSLY ANNOUNCED THAT "STATES SHALL NOT BE IMMUNE UNDER THE ELEVENTH AMENDMENT... FOR AN ACTION IN [a] FEDERAL OR STATE COURT OF COMPETENT JURISDICTION FOR VIOLATION OF THIS CHAPTER". BOARD OF TRUSTEES OF UNIV. OF ALA. V. GARRETT, 531 U.S. 356 (2001). THEN, FOLLOWING LOUISIANA EX REL. FRANCIS V. RESWEBER, 329 U.S. 459 (1947, [DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT INCORPORATE'S THE EIGHT AMENDMENT'S GUARANTEE AGAINST CRUEL AND UNUSUAL **PUNISHMENT**] THE COURT RULED THAT IT IS ESTABLISHED THAT STATE CONDUCT THAT ACTUALLY VIOLATES THE FOURTENTH AMENDMENT TRUMPS THE ELEVENTH AMENDMENT SOVEREIGN IMMUNITY OF THE STATES. TENNESSEE V. LANE, 541 U.S. 509 (2004) AND EX PARTE VIRGINIA, 100 U.S. 339 (1880) [CONFIRMING FOURTEENTH AMENDMENT'S § 5 ENFORCEMENT POWERS]. THEN STATED THAT BECAUSE GOODMAN[6] HAD NOT EXPRESSLY ALLEGED "FOURTEENTH AMENDMENT" ONES, THE COURT HELD THAT HE SHOULD BE ALLOWED TO AMEND HIS COMPLAINT IF POSSIBLE.

6/ TONY GOODMAN, A PARAPLEGIC GEORGIA STATE PRISONER, SUED "STATE DEFENDANTS" IN FEDERAL DISTRICT COURT UNDER 42 U.S.C. § 1983 AND TITLE II OF THE ADA FOR VIOLATION OF HIS EIGHTH AMENDMENT RIGHTS AS TO CRUE AND UNUSUAL PUNISHMENT. (ALL EMPHASIS ADDED BY PLAINTIFF)

C. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary.)

Count 4: The following civil right has been violated: 1ST AMEND. (INTERFERED WITH AND/OR DENIED MEDICAL TREATMENT AND/OR DENIED MEDICATION); 8TH AMEND. (CRUEL AND UNUSUAL PUNISHMENT). (E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 1.]

59) PLAINTIFF RE-ALLEGES AND INCORPORATE BY REFERENCE EACH ALLEGATION IN PARAGRAPHS NO. 1, 2, AND 3) INCLUSIVE AS IF ALLEGED HERE IN.

60) PLAINTIFF ASSERT THAT ON INFORMATION AND BELIEF THE UNITED STATES DISTRICT COURT, NORTHERN DISTRICT, IN "JUNE 2002", A COURT ORDER WAS ENTERED IN A LAWSUIT CALLED "PLATA V. DAVIS" (HERE AFTER "PLATA V. SCHWARZENEGGER") PLATA IS A FEDERAL CIVIL RIGHTS CLASS ACTION LAWSUIT REGARDING MEDICAL CARE IN ALL CALIFORNIA PRISONS. EVERY CDC PRISONER WHO HAS A SERIOUS MEDICAL CONDITION IS A MEMBER OF THE CLASS (GROUP OF PRISONERS) COVERED BY THE LAWSUIT. THE COURT ORDER REQUIRES PRISON OFFICIALS TO MAKE MAJOR CHANGES IN MEDICAL CARE, UNDER A SCHEDULE REQUIRING CHANGES AT SEVERAL PRISONS EACH YEAR BETWEEN 2003 AND 2008, AND "CALIPATRIA STATE PRISON" WAS SCHEDULED TO MAKE IT'S CHANGES IN MEDICAL ON OR ABOUT JANUARY OF 2007; SPECIFICALLY PURSUANT TO THE SETTLEMENT AGREEMENT, MEDICATION: "FORMULARY PRESCRIPTIONS TO BE FILLED IMMEDIATELY IF AN EMERGENCY OR URGENT, OR WITHIN 24 HOURS IF ROUTINE; ADEQUATE PHARMACY STAFFING AND SPACE REQUIRED; MEDICATION RENEWAL AND REFILL SYSTEM REQUIRED."

61) PLAINTIFF ASSERT THAT ON INFORMATION AND BELIEF ON "JULY 23, 2007", TWO UNITED STATES DISTRICT JUDGES IN NORTHERN DISTRICT AND EASTERN DISTRICT OF CALIFORNIA SIMULTANEOUSLY ISSUED ORDERS... IN PLATA V. SCHWARZENEGGER U.S. DISTRICT JUDGE, MR. THELTON E. HENDERSON, REVIEWED THE LONG AND FRUSTRATING HISTORY OF THE "PLATA CASE", OBSERVING THAT NOTHWITHSTANDING THE PROGRESS SINCE RECEIVER WAS APPOINTED, "THAT FACT DOES NOT RENDER IRRELEVENT THE PREVIOUS "FIVE YEARS" OF COMPLETE AND UTTER FAILURE BY.

DEFENDANTS TO CURE THE CONSTITUTIONAL DEFICIENCIES IN THEIR DELIVERY OF MEDICAL HEALTH CARE TO PRISONERS. WHERE LIFE AND DEATH HANG IN THE BALANCE, COURTS MUST ACT TO ENSURE THAT CONSTITUTIONAL VIOLATIONS ARE CURED SOONER RATHER THAN LATER".

62) PLAINTIFF ASSERT THAT ON OR ABOUT MAY OF 2007, HE WAS TAKEN TO AN OUT-SIDE HOSPITAL AND EXAMINED AND PRESCRIBED PAIN MEDICATION BY AN ORTHO-SPECIALIST (NAME UNKNOWN). THE ORTHO SPECIALIST PRESCRIBED "TRAMADOL HYDROCHLORIDE 50 MG TABLET.

63) ON 06-17-07, AT 4:40 P.M., LVN D. NORIEGA GAVE PLAINTIFF HIS PAIN MEDICATION, RECEIVED FOR THE "FIRST TIME", TO WIT, TRAMADOL HYDROCHLORIDE 50 MG TABLET". LVN D. NORIEGA STATED THAT SHE DONT KNOW WHY PLAINTIFF HAVE NOT BEEN RECEIVING HIS PAIN MEDICATION, AND THAT SHE DID NOT KNOW WHEN SAID MEDICATION WAS APPROVED, AND LVN D. NORIEGA SPECIFICALLY STATED THAT "SHE WILL LET PLAINTIFF KNOW TOMORROW".

64) ON 06-18-07, AT OR ABOUT 7:15 A.M, LVN D. NORIEGA WAS PASSING-OUT MEDICATION TO PATIENT/INMATES AND PLAINTIFF REQUESTED HIS PAIN MEDICATION? LVN. D. NORIEGA DID NOT HAVE PAIN MEDICATION FOR PLAINTIFF, NOR DID SHE RECALL GIVEN PLAINTIFF HIS PAIN MEDICATION ON 06-17-07, NOR COULD SHE GIVE THE DATE OF APPROVAL FOR THE PRESCRIBED MEDICATION TO WIT, "TRAMADOL HYDROCHLORIDE 50 MG TABLET". LVN D. NORIEGA THAN WROTE PLAINTIFF NAME DOWN AND SPECIFICALLY STATED THAT "SHE WILL CHECK INTO THE MATTER" BUT SHE NEVER GOT BACK TO PLAINTIFF.

65) PLAINTIFF ASSERT THAT LVN. D. NORIEGA AND OTHER MEDICAL STAFF WAS MADE AWARE OF THE FACT THAT PLAINTIFF WAS IN SEVERE PAIN WHEN INTERFERED WITH AND/OR DENIED MEDICAL TREATMENT AND/OR DENIED MEDICATION WHILE AT FACILITY B.

66) THE CDC 602 DATED 06-18-07 (LOCAL LOG NO. CAL-07-01247) WAS REVIEWED BY J.M SALGADO (R.N). PLAINTIFF WAS PERSONALLY INTERVIEWED BY J.M SALGADO (R.N)

ON 07-20-07, AND J.M SALGADO (R.N) PARTIALLY GRANTED THE CDC 602 FOR THE FIRST LEVEL, SPECIFICALLY STATING " 1) TRAMADOL ORDERED BUT NEVER NOTED ON 5/23/07 1400. I/P SHOULD HAVE RECEIVED MEDICATION THAT SAME DAY FOR THE FOLLOWING DAY 2) & 3) WILL DISCUSS THE ISSUE WITH BYARD MEDICAL STAFF REGARDING PREVENTION OF THESE TYPES OF ISSUES 4) I/P REQUESTING $ 5,000.00 FOR PAIN AND SUFFERING. IS THIS POSSIBLE? IF SO, WHO CAN ANSWER THIS?" ON OR ABOUT 07-24-07, M. CORREA, (R.N) (SUPERVISING REGISTERED NURSE II) APPROVED THE FIRST LEVEL DECISION; M. CORREA, (R.N) SUPERVISOR REGISTERED NURSE II) REVIEWED THE CDC 602 FOR THE SECOND LEVEL AND PARTIALLY GRANTED PLAINTIFF CDC 602 ON 08-30-07, ON OR ABOUT 08-30-07, K. BALL (D.O),. (CP&S) (CHIEF PHYSICIAN/SURGEON) APPROVED THE SECOND LEVEL DECISION; ON 12-14-07, SAID APPEAL WAS DENIED BY V. O'SHAUGHNESSY (APPEAL EXAMINER), REVIEWED THE MATTER FOR THE SECRETARY AND OR DIRECTOR OF CDCR.

67) THIS IS AN ACTION ARISING UNDER THE FIRST AND EIGHT AMENDMENTS OF THE CONST. OF THE UNITED STATES AND TITLE 42 OF THE UNITED STATES CODE SECTION 1981 AND 1983, ALLEGING VIOLATIONS OF PLAINTIFF'S CIVIL AND HUMAN RIGHTS WHILE IN THE CUSTODY OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND MEDICAL STAFFS AND CORRECTIONAL OFFICIALS AND CORRECTIONAL OFFICERS HEREIN AT CALIPATRIA STATE PRISON. PLAINTIFF NEHEMIAH ROBINSON, WAS INJURED PHYSICALLY, MENTALLY, AND EMOTIONALLY WHEN MEDICAL STAFFS AND CORRECTIONAL OFFICIALS AND CORRECTIONAL OFFICERS DEFENDANTS D. NORIEGA (L.V.N), J.M. SALGADO (R.N), M. CORREA, (R.N) (SUPERVISING REGISTERED NURSE II), K. BALL, (D.O),. (CP&S) (CHIEF PHYSICIAN / SURGEON), V. O'SHAUGHNESSY (APPEAL EXAMINER), AND THE SECRETARY AND OR DIRECTOR OF CDCR IN CALIFORNIA; ACTED IN THEIR OFFICIAL/ INDIVIDUAL CAPACITY TO VIOLATE PLAINTIFF CIVIL AND CONSTITUTIONAL RIGHTS WHEN INDIVIDUALLY AND COLLECTIVELY DELIBERATELY INTERFERED WITH AND/ OR DENIED MEDICAL TREATMENT AND/OR DENIED MEDICATION FOR MONTHS.

68) DEFENDANT D. NORIEGA (LV.N) DELIBERATELY INDIFFERENTLY INTERFERED WITH AND/OR DENIED MEDICAL TREATMENT AND/OR DENIED PLAINTIFF PAIN MEDICATION FOR MONTHS, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT TREATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

69) DEFENDANT J.M. SALGADO (R.N) DELIBERATELY INDIFFERENTLY INTERFERED WITH AND/OR DENIED MEDICAL TREATMENT AND/OR DENIED PLAINTIFF PAIN MEDICATION FOR MONTHS, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION / ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT TREATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH. AND DELIBERATELY INDIFFERENTY PARTICIPATED IN THE MISCONDUCT.

70) DEFENDANT M. CORREA, (R.N) (SUPERVISING REGISTERED NURSE II) DELIBERATELY INDIFFERENTLY INTERFERED WITH AND/OR DENIED MEDICAL TREATMENT AND/OR DENIED PLAINTIFF PAIN MEDICATION FOR MONTHS, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT TREATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH AND DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE MISCONDUCT.

71) DEFENDANT K. BALL, (D.O), (CP&S) (CHIEF PHYSICIAN/SURGEON) DELIBERATELY INDIFFERENTLY INTERFERED WITH AND/OR DENIED MEDICAL TREATMENT AND/OR DENIED PLAINTIFF PAIN MEDICATION FOR MONTHS, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT TREATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH. AND DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE MISCONDUCT.

72) DEFENDANT V. O'SHAUGHNESSY (APPEAL EXAMINER) DELIBERATELY INDIFFERENTLY INTERFERED WITH AND/OR DENIED MEDICAL TREATMENT AND/OR

DENIED PLAINTIFF PAIN MEDICATION FOR MONTHS, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT TREATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH. AND DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE MISCONDUCT.

73) DEFENDANT SECRETARY AND OR DIRECTOR OF CDCR [J. TILTON] DELIBERATELY INDIFFERENTLY INTERFERED WITH AND/OR DENIED MEDICAL TREATMENT AND/OR DENIED PLAINTIFF PAINMEDICATION FOR MONTHS, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT TREATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH. AND DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE MISCONDUCT.

74) THE DEFENDANTS AND EACH OF THE FOR MENTIONED IN THIS COMPLAINT KNEW OR SHOULD HAVE KNOWN THAT TO INTERFERE WITH AND/OR DENY MEDICAL TREATMENT AND/OR DENY PLAINTIFF PAIN MEDICATION FOR MONTHS WAS IN CLEAR VIOLATION OF THE SETTLEMENT AGREEMENT REACHED IN PLATA V. SCHWARZENEGGER, AND UNCONSTITUTIONAL ACT. WHICH THEY WERE REQUIRED TO PREVENT OR REPORT AS AN ACT OF MISCONDUCT. THE PLAINTIFF OF THE FORE GOING ACTION ALLEGES THAT HE HAS BEEN DAMAGED AND SUFFERS FROM SEVERE PAIN AND DISABILITY FOR WHICH HE SEEKS COMPENSATORY, NOMINAL, AND PUNITIVE DAMAGES OR AN AWARD BY TRIAL OR JURY.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF RESPECTFULLY PRAY THAT THIS COURT ENTER JUDGMENT GRANTING PLAINTIFF:

1. A DECLARATORY JUDGMENT THAT DEFENDANTS ACTS, AND PRACTICES DESCRIBED HEREIN VIOLATE PLAINTIFF'S RIGHTS UNDER THE UNITED STATES CONSTITUTION.

2. A PRELIMINARY AND PERMANENT INJUNCTION WHICH:

(a) PROHIBITS THE DEFENDANTS, THEIR SUCCESSORS IN OFFICE, AGENTS AND EMPLOYEES AND ALL OTHER PERSONS IN ACTIVE CONCERT AND PARTICIPATION WITH THEM FROM HARASSING, THREATENING, PUNISHING OR RETALIATING IN ANYWAY AGAINST PLAINTIFF BECAUSE HE FILED THIS ACTION OR AGAINST ANY OTHER PRISONER BECAUSE THAT PRISONER SUBMITTED AFFIDAVITS IN THIS CASE ON BEHALF OF THE PLAINTIFF;

(b) PROHIBITS DEFENDANTS T. OCHOA, G. JANDA, J. TILTON, AND THEIR SUCCESSORS IN OFFICE, FROM TRANSFERRING PLAINTIFF TO ANY OTHER INSTITUTION, WITHOUT THE PLAINTIFF'S EXPRESS CONSENT, DURING THE PENDENCY OF THIS ACTION

(c) REQUIRE T. OCHOA, J. TILTON, TO REMOVE FROM PLAINTIFF PRISON FILES AND RECORDS ANY REFERENCES TO ANY EVENTS DESCRIBED HEREIN OR TO THE FACT THAT PLAINTIFF FILED THIS SUIT;

(d) REQUIRE G. JANDA, T. OCHOA, J. TILTON, TO TRANSFER AND PERMANENTY HOUSE PLAINTIFF AT EITHER CALIFORNIA MENS COLONY (CMC), OR CALIFORNIA MEDICAL FACILITY (CMF) TO RECEIVE ADEQUATE/EFFECTIVE MEDICAL TREATMENT AND ADEQUATE/EFFECTIVE PHYSICAL THERAPY;

(e) REQUIRE T. OCHOA, J. TILTON, G. JANDA, TO EXPUNGE ANY AND ALL FALSE AND RETALIATORY RULE VIOLATION REPORTS (CDC 115'S) FROM PLAINTIFF PRISON FILES.

3. COMPENSATORY DAMAGES IN THE AMOUNT OF $ 250,000.00 FROM DEFENDANTS T. CATLETT, B. GARRETT, M. ARVIZU, J. SALGADO, J. TILTON, K. BALL, G. JANDA, R. JOHNSON, R. NELSON, JR., T. OCHOA, W. PRICE, R. WHIDMAN, M. CORREA, M. BOURLAND, D. NORIEGA, AND O'SHAUGHNESY AND EACH OF THEM, TO PLAINTIF, AND EACH OF THEM,

4. PUNITIVE DAMAGES IN THE AMOUNT OF $ 250,000.00 FROM DEFENDANTS T. CATLETT, B. GARRETT, M. ARVIZU, J. SALGADO, J. TILTON, K. BALL, G. JANDA, R. JOHNSON, R. NELSON, JR., T. OCHOA, W. PRICE, R. WHIDMAN, M. CORREA,

M, BOURLAND, D. NORIEGA, AND O' SHAUGHNESY AND EACH OF THEM, TO PLAINTIFF, AND EACH OF THEM,

5. NOMINAL DAMAGES IN THE AMOUNT OF $1.00 FROM DEFENDANTS T. CATLETT, B. GARRET, M. ARVIZU, J. SALGADO, J. TILTON, K. BALL, G. JANDA, R. JOHNSON, R. NELSON, JR., T. OCHOA, W. PRICE, R. WHIDMAN, M. CORREA, M. BOURLAND, D. NORIEGA, AND O'SHAUGHNESY.

6. A JURY TRIAL ON ALL ISSUES TRIABLE BY JURY

7. PLAINTIFFS' COSTS OF THIS SUIT.

8. JUDGMENT AGAINST DEFENDANTS AND ALL OF THEM FOR ATTORNEY FEES, AS WELL AS REASONABLE COMPENSATION FOR INVESTIGATION ON BEHALF OF THE PLAINTIFF REQUEST FOR APPOINTMENT OF COUNSEL.

9. SUCH OTHER AND FURTHER RELIEF AS THIS COURT DEEM JUST, PROPER AND EQUITABLE.

VERIFICATION

I HAVE READ THE FORE GOING COMPLAINT AND HEREBY VERIFY THAT THE MATTERS ALLEGED THEREIN ARE TRUE, EXCEPT ON MATTERS ALLEGED ON INFORMATION AND BELIEF, AND, AS TO THOSE, I BELIEVE THEM TO BE TRUE. I CERTIFY UNDER PENALTY OF PERJURY THAT THE FORE GOING IS TRUE AND CORRECT.

DATED: JUNE 22, 2008.

SIGNATURE [signature]
- PLAINTIFF -
PRO-SE

D. Previous Lawsuits and Administrative Relief

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts involved in this case? ☑ Yes ☐ No.

If your answer is "Yes", describe each suit in the space below. [If more than one, attach additional pages providing the same information as below.]

(a) Parties to the previous lawsuit:
Plaintiffs: NEHEMIAH ROBINSON J-71342
Defendants: 1) K. TODD, 2) M. PENNER, 3) B. SWIFT, 4) L. J. DOVEY, 5) P. VANCOR, 6) J. TORELLA, 7) G. BORGES, 8) B. KING, 9) J. STOCKER

(b) Name of the court and docket number: IN THE UNITED STATES DISTRICT COURT, FOR THE EASTERN DISTRICT OF CALIFORNIA. NO. CIV-S-05-1499 LKK CMK P.

(c) Disposition: [For example, was the case dismissed, appealed, or still pending?] PENDING APPEAL.

(d) Issues raised: DELIBERATE INDIFFERENCE TO PLAINTIFF'S SERIOUS MEDICAL NEED, DENIED MEDICATION AND TREATMENT, INTERFERED WITH PRESCRIBED TREATMENT, AND DENIED RIGHT TO PETITION THE GOVERNMENT FOR REDRESS OF GRIEVANCE, AS ALLEGED IN CLAIMS 1-3 OF THE COMPLAINT.

(e) Approximate date case was filed: MAY 26, 06.

(f) Approximate date of disposition: ________.

2. Have you previously sought and exhausted all forms of informal or formal relief from the proper administrative officials regarding the acts alleged in Part C above? [E.g., CDC Inmate/Parolee Appeal Form 602, etc.] ? ☑ Yes ☐ No.

If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No", briefly explain why administrative relief was not sought.
PLEASE SEE PARAGRAPHS: 16, 34, 53, AND 66, OF THE FIRST AMENDED COMPLAINT.

E. Request for Relief

Plaintiff requests that this Court grant the following relief:

1. An injunction preventing defendant(s): PLEASE SEE PAGES: 29, 30, AND 31.

2. Damages in the sum of $ PLEASE SEE PAGES: 29, 30, AND 31.

3. Punitive damages in the sum of $ ________.

4. Other: ________.

F. Demand for Jury Trial

Plaintiff demands a trial by ☑ Jury ☐ Court. (Choose one.)

G. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment involving direct assignment of these cases to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. § 636(c), thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial, and the entry of final judgment by indicating your consent below.

Choose only one of the following:

☑ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

☐ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

JUNE 22, 2008.
Date

[signature]
Signature of Plaintiff

§ 1983 SD Form
(Rev. 2/05)

VERIFICATION

STATE OF CALIFORNIA
COUNTY OF IMPERIAL

(C.C.P. SEC.446 & 201.5; 28 U.S.C. SEC. 1746)

I, NEHEMIAH ROBINSON J-71342 DECLARE UNDER PENALTY OF PERJURY THAT: I AM THE PLAINTIFF IN THE ABOVE ENTITLED ACTION; I HAVE READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND THE SAME IS TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED THEREIN UPON INFORMATION, AND BELIEF, AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE.

EXECUTED THIS 29TH DAY OF: JUNE 2008 AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002

(SIGNATURE) [signature]
(DECLARANTIPRISONER)

PROOF OF SERVICE BY MAIL

(C.C.P. SEC.1013 (a) & 2015.5; 28 U.S.C. SEC.1746)

I, NEHEMIAH ROBINSON J-71342 AM A RESIDENT OF CALIPATRIA STATE PRISON, IN THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA. I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE AND AM / NOT A PARTY OF THE ABOVE-ENTITLED ACTION. MY STATE PRISON ADDRESS IS: P.O. BOX 5002. CALIPATRIA, CALIFORNIA #92233-5002.

ON JUNE 29, 2008. I SERVED THE FOREGOING: ORIGINAL AND TWO COPIES OF FIRST AMENDED COMPLAINT, DECLARATION OF PLAINTIFF NEHEMIAH ROBINSON J-71342, NOTICE OF CHANGE OF ADDRESS.

(SET FORTH EXACT TITLE OF DOCUMENTS SERVED)

ON THE PARTY (S) HEREIN BY PLACING A TRUE COPY (S) THEREOF, ENCLOSED IN A SEALED ENVELOPE (S), WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002.

CLERK OF U.S. DISTRICT COURT
880 FRONT STREET, ROOM 4290
SAN DIEGO, CA. 92101-8900

THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED. I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: JUNE 29, 2008.

[signature]
(DECLARANTIPRISONER)

DECLARATION UNDER PENALTY OF PERJURY OF NEHEMIAH ROBINSON J-71342

NEHEMIAH ROBINSON, BEING COMPETENT TO MAKE THE DECLARATION AND HAVING PERSONAL KNOWLEDGE OF THE MATTERS STATED THEREIN, DECLARES PURSUANT TO 28 U.S.C § 1746:

1. ON OR ABOUT JUNE 2, 2008, WHILE HOUSED AT FACILITY A, CELL # 148, IN THE A.M HOUR, APPROXIMATELY 9:15, CORRECTIONAL OFFICER GROTH (A-5 AD/SEG LEGAL OFFICER #2), AND CORRECTIONAL OFFICER RODILES ESCORTED PLAINTIFF ALONG WITH THREE OTHER INMATES, TO THE LAW LIBRARY AND WHILE ENROUTE TO THE VAN (VEHICLE), CORRECTIONAL OFFICER RODILES SPECIFICALLY STATED THAT PLAINTIFF HAS A MEDICAL APPOINTMENT THIS MORNING AND THAT HE (CORRECTIONAL OFFICER RODILES) WILL BE TRANSPORTING PLAINTIFF SHORTLY FROM THE LAW LIBRARY TO CENTRAL HEALTH;

2. AT APPROXIMATELY 10:15 A.M CORRECTIONAL OFFICER GROTH APPROACHED PLAINTIFF CAGE AND SPECIFICALLY STATED THAT PLAINTIFFS ESCORT IS HERE AND READY TO ESCORT PLAINTIFF TO HIS MEDICAL APPOINTMENT AT CENTRAL HEALTH. PLAINTIFF WAS THEN HANDCUFFED AND ESCORTED TO THE VAN AND PLACED INSIDE THE VAN BY CORRECTIONAL OFFICER RODILES;

3. WHILE INSIDE THE VAN CORRECTIONAL OFFICER RODILES SPECIFICALLY STATED THAT PLAINTIFF IS NOT GOING TO A MEDICAL APPOINTMENT, THAT PLAINTIFF IS GOING TO "A.S.U. #1" (ADMINISTRATIVE SEGREGATION UNIT), A MORE ISOLATED AREA; CORRECTIONAL OFFICER LIZARRAGA (NAME COULD BE SPELLED WRONG) THAN ENTERED THE VAN AND CORRECTIONAL OFFICER RODILES TRANSPORTED PLAINTIFF TO A.S.U #1;

4. WHEN PLAINTIFF ARRIVED AT A.S.U. #1 RECEIVING, HIS PERSONAL PROPERTY WAS ALREADY THERE AT RECEIVING, ON A CART, IN BROWN PAPER BAGS; THE PROPERTY WAS SEARCHED AND RETURNED TO PLAINTIFF (LEGAL MAIL AND LEGAL DOCUMENTS WERE SEARCHED OUT-SIDE PLAINTIFF'S PRESENCE)

5. PLAINTIFF WAS STRIPPED-SEARCHED AND PLACED IN CELL #148, E-POD; WHERE HE REMAINS TODAY;

6 PLAINTIFF HAVE BEEN DENIED ACCESS TO THE LAW LIBRARY. THUS, PLAINTIFF IS WITHOUT THE NEEDED LEGAL SUPPLIES AND CAN NOT CONDUCT LEGAL RESEARCH, ET, AL. PLAINTIFF WAS FORTUNATE TO HAVE IN HIS PERSONAL POSSESSION A COMPLAINT UNDER THE CIVIL RIGHTS ACT 42 U.S.C. § 1983, FOR THE SOUTHERN DISTRICT, TO AMEND HIS COMPLAINT; AND A MANILA ENVELOPE TO MAIL THE COMPLAINT TO THE COURT;

7. ON JUNE 26, 2008, CORRECTIONAL OFFICER T. BARAJAZ (ASU, LEGAL OFFICER #1) MADE THREE COPIES OF PLAINTIFF'S FIRST AMENDED COMPLAINT BUT HE DID NOT HAVE A MANILA ENVELOPE FOR PLAINTIFF, AND THE COPIES DID NOT COME-OUT CLEAR AND PLAINTIFF POINTED THAT OUT TO CORRECTIONAL OFFICER T. BARAJAZ;

8. CORRECTIONAL OFFICER T. BARAJAZ SPECIFICALLY STATED THAT PLAINTIFF IS ON THE LEGAL DEADLINE LIST AND WILL BE GOING TO THE LAW LIBRARY ON JUNE 27, 2008, THAT HE WILL BE PERSONALLY ESCORTING PLAINTIFF TO THE LAW LIBRARY ON JUNE 27, 2008, AND THAT PLAINTIFF COULD THEN MAKE BETTER COPIES OF THE FIRST AMENDED COMPLAINT, GET THE NEEDED LEGAL SUPPLIES, AND CONDUCT LEGAL RESEARCH. CORRECTIONAL OFFICER T. BARAJAZ LIED, HE DID NOT COME TO WORK ON JUNE 27, 2008. THUS, PLAINTIFF DID NOT RECEIVE ACCESS TO THE LAW LIBRARY;

9. PLAINTIFF PREVIOUSLY FILED A CDC 602 (INMATE APPEAL) DATED SEPTEMBER 06, 2007 (LOG. NO. CAL-A-07-01877) RESPECTFULLY REQUESTING MEANINGFUL ACCESS TO THE LEGAL LAW LIBRARY, AND MR. T. OCHOA (CHIEF DEPUTY WARDEN) "FULLY GRANTED" PLAINTIFFS APPEAL AT THE SECOND LEVEL; BUT PLAINTIFF HAVE BEEN HOUSED HERE AT A.S.U. #1. FOR APPROXIMATELY TWENTY-FIVE-DAYS (25) AND "HAVE NOT" RECEIVED ACCESS TO THE LAW LIBRARY ONE TIME;

10. CORRECTIONAL OFFICER T. BARAJAZ, "DO NOT" PASS-OUT AD/SEG LAW LIBRARY ACCESS REQUEST FORMS, AND THE CORRECTIONAL OFFICERS OVER HERE AT ASU #1. DONT PASS BOOKS OR LEGAL MATERIAL FOR INMATES. THUS, PLAINTIFF IS BEING DENIED ASSISTANCE FROM OTHER INMATES, AND THEY (CORRECTIONAL OFFICERS/OFFICIALS AND LIBRARIAN TECH. ASSISTANT) REFUSE TO ARRANGE DELIVERY OF REQUESTED AND AVAILABLE LAW LIBRARY MATERIAL TO INMATE'S QUARTERS;

11. PLAINTIFF IS INDIGENT. THUS, PLAINTIFF IS IN NO POSITION TO PURCHASE THE NEEDED LEGAL BOOKS, LEGAL SUPPLIES ET, AL; NOR ARE THE INMATES IN ASU #1. ALLOWED TO PURCHASE WRITING SUPPLIES FROM CANTEEN (DUE TO LOCKDOWN);

12. PLAINTIFF HAS CLEARLY DEMONSTRATED THE ATYPICAL HARDSHIP HE'S EXPERIENCING WHILE HOUSED AT ASU #1, AND PLAINTIFF IS IN NO POSITION TO SERVE A COPY OF THE FIRST AMENDED COMPLAINT TO THE DEFENDANTS' ATTORNEY OF RECORD, MS. SYLVIE P. SNYDER (DEPUTY ATTORNEY GENERAL), IN KEEPING WITH F.R.C.P 15(a).

13. PLAINTIFF HAS MAILED THE ORIGINAL AND TWO COPIES OF THE FIRST AMENDED COMPLAINT, THE ORIGINAL IS WRITTEN IN INK, BUT THE TWO COPIES DID NOT COME OUT PERFECT, HAS DEFECTS OR FLAWS AND ILLEGIBLE. NO FAULT OF PLAINTIFF.

PURSUANT TO 28 U.S.C. § 1746, I DO DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON JUNE 27, 2008.

SIGNATURE: [signature]

NEHEMIAH ROBINSON J-71342
PLAINTIFF PRO'SE